



To: Participants in Public Defense 102 – Trial Skills Workshop
From: Lawrence Brown
Re: Advance Preparation for the Training Workshop

ADVANCE SUBMISSION OF MATERIALS ON DEADLINE IS REQUIRED.

**PLEASE REVIEW ALL CONTENTS OF THIS PACKAGE THOROUGHLY.
DO NOT WAIT UNTIL THE LAST MINUTE.**

Thank you for enrolling in the *Public Defense 102 Trial Skills Workshop*. Public Defense 102 is not like most CLE courses. While it does feature plenary lecture sessions with speakers and PowerPoints, you will spend most of your time in small group practice workshops led by experienced attorneys.

In the Plenary Sessions, we will be working as a group on a fact problem, with the aim of learning skills that you will then be able to apply to your own cases in the small group workshops. In the small groups, you will prepare and present actual cases that you and your fellow participants bring with you. Therefore, you need to choose a suitable case from your own active files to work on, which will satisfy the requirements set out in the instructions. You should also be aware that there may be some homework assigned for the following day — usually to prepare for your performances in the following day's workshops.

In this package you will find the following:

1. Confidentiality Agreement
2. Case Summary Form and Instructions
3. Plenary Case Fact Scenario

YOU MUST DO THE FOLLOWING TO PREPARE FOR THE WORKSHOP:

1. **Print and sign a copy of the Confidentiality Agreement enclosed in this packet. Scan the signed Agreement and email it to Lbrown@sccid.sc.gov.**
2. **Choose one of your own pending cases to work on at the workshop. Follow the enclosed instructions to choose and prepare your case for the workshop.**
3. **Fill out the enclosed Case Summary Form as instructed. You may use the PDF form in this packet or the Word-format form.**
4. **BY JULY 2, 2020, PLEASE EMAIL THE FOLLOWING ITEMS TO YOUR GROUP LEADER (to be assigned after you register):**

a. Your completed Case Summary Form.

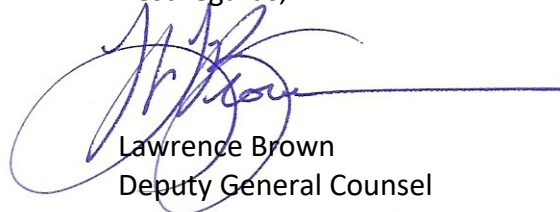
b. The following items:

- i. The indictment(s) (if applicable);
- ii. The warrant(s)/ticket(s);
- iii. Any police reports you have;
- iv. Any witness statements (particularly any statement by a witness you plan to cross examine);
- v. The preliminary hearing transcript (if available in your circuit).

5. Read the Plenary-Session Fact Problem included in this packet and be prepared to discuss it. Faculty will use this problem for any discussions and demonstrations in the large group sessions. You do not have to do any additional research, writing or preparation concerning the fact pattern.

I look forward to seeing you at Public Defense 102. If you have any questions before then, please feel free to email me at LBrown@sccid.sc.gov, call or text me at (803) 270-7657. If you text me, please identify yourself in the text.

Best regards,

A handwritten signature in blue ink, appearing to read 'Lawrence Brown', with a long horizontal line extending to the right.

Lawrence Brown
Deputy General Counsel
and Training Director
S.C. Commission on Indigent Defense

CONFIDENTIALITY AGREEMENT

I understand that as part of Public Defense 102 Trial Advocacy Workshop, all participants, including myself will be freely and openly discussing actual pending criminal cases in which we represent one or more defendants.

I understand and agree that by participating in this workshop, I have become a member of the defense team in each of the cases discussed, and that I am therefore bound by the attorney-client privilege and the rules of attorney and attorney-client confidentiality not to divulge or discuss anything I hear or learn about any of the cases discussed at this workshop with anyone outside of the faculty and participants of this workshop.

Signature

Name (Printed)

Office

Date



Public Defense 102: TRIAL ADVOCACY WORKSHOP

CHOOSING A CASE FOR THE PD102 TRIAL SKILLS WORKSHOP

Carefully select your case, as it will form the basis for the work you will be doing in all the small group workshop sessions.

GOOD CASES TO USE: The case should be an open, pending case at the trial level that you consider to have a viable defense. The case can be either a felony or a misdemeanor. Cases with multiple potential witnesses work best.

CASES NOT TO USE: Avoid cases with only one witness for the prosecution and in which the defendant is the only potential defense witness.

The case you choose **cannot be** an appeal, a post-conviction or habeas corpus case, a case you have already tried to completion, a closed case, or a case awaiting sentence.

If you are a part-time public defender, you may not use a case where you have been privately retained.

CASE PREPARATION REQUIRED PRIOR TO PD102: You should have interviewed your client and have done enough investigation to be familiar with the basic facts and witnesses in the case. You do not have to prepare any of the parts of your trial performance in advance. For example, you do not have to arrive at the training prepared to do an opening or a closing. However, you must familiarize yourself with the facts of the case and be prepared to discuss them in detail.

WHAT IF YOU DON'T HAVE A SUITABLE CASE: If you do not have a case that meets all of the above criteria, please consult with your group leader to select a current case you are working on that fulfills some of the criteria or see if there is an opportunity in your office to co-chair with a lawyer that is working a case that meets this criteria. If you still cannot find a case, please utilize the PD102 Plenary Fact Pattern included in this packet.

FILLING OUT THE CASE SUMMARY FORM

The Case Summary Form is designed to provide your group leader and members with a quick overview and understanding of your case. For the Expected Prosecution and Defense Case sections, briefly set forth the witnesses, testimony and evidence that you expect may be presented at trial and any observations you may have from your investigation of the case. You may use the Plenary Fact Pattern as an example.

The Form should be easy to fill out on the computer or by hand. You will probably need more space to describe the Prosecution and Defense cases, so I am attaching a separate copy of the form in MS Word format to make it easier for you to adjust for additional space as necessary. Please let me know if you have any questions about the form.



**Public Defense 102:
TRIAL ADVOCACY WORKSHOP**

CASE SUMMARY FORM

Attorney Name:	
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Client Information

Sex:	
Race:	
Marital/Relationship Status:	
Children:	
Other Family Considerations/Support:	
Education Level:	
Employment/ Work History:	
Health/Medical:	
Additional Facts or Considerations that Describe Client in Human Terms?	

Charge(s)

Name of Offense:	Statute/Code No.:

Expected Prosecution Case

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Expected Defense Case

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Public Defense 102: TRIAL ADVOCACY WORKSHOP

PD 102 Plenary Fact Pattern

CHARACTERS	
John Mitchell	Client
Blake	Co-Defendant 1
Thomas Mitchell	Co-Defendant 2 (Brother of Client)
Paul	Decedent 1 (Allegedly murdered by Client)
Carl	Decedent 2 (Allegedly murdered by Thomas)
Whitney	Girlfriend of Paul

Your client, John Mitchell, has been charged with MURDER. The prosecution is not seeking the death penalty. John and his brother Thomas are being tried jointly for the MURDER of Paul and Carl. Thomas does not plan to take the stand. Blake is a co-defendant also charged with the same MURDER. He has agreed to be a witness for the State in the case against the brothers.

John is a 26-year old African American male. Five years ago he received his B.A. degree from the University of South Carolina in Hospitality, Restaurant and Tourism Management. He played on the football team. His nickname on the field was the "The Outlaw", and he is still frequently referred to by that name. He was raised in a low-income, urban household. He has 5 siblings, including his older brother Thomas. John is currently the floor manager at the White Gold Gentleman's Club.

John has a prior conviction three (3) years ago for possession of marijuana. While attending Carolina, he was temporarily placed on probation for a cheating scandal. The newspaper thoroughly covered this event. His reputation has not fully recovered. He is "The Outlaw" for the cheating scandal as much as for playing football.

John's Co-defendants Thomas and Blake both were convicted for the same incident of drug trafficking nine (9) years ago. They are longtime friends and have been involved in selling drugs for over a decade. Blake and Thomas are both 32 years old.

John's Story Based on Initial Interview

On September 15th of last year, John decided to go to the White Gold on his night off to enjoy a night of partying. He arrived at 11:00 p.m. After drinking "a lot", John decided to call a cab for a ride home. He believes this occurred at 3:15 a.m. As he was waiting for a cab outside the White Gold, his brother Thomas drove up in a black Escalade and told him to "get in." Blake assumed Thomas would give him a ride home and got in. Thomas's "old friend" Blake, was in the front passenger seat.

During the course of the ride, John heard Thomas and Blake in a heated discussion about a problem with their long-running drug enterprise. John did not pay much attention, but heard Blake say something along the line of: *"if those crackers don't have the money for that kilo, it's gonna get messy."* He also heard Thomas respond, *"My four-four will make sure all they kids don't grow."* John asked if Thomas was going to drop him off, to which Thomas replied, *"Yeah little bro, right after we make one quick stop."*

At approximately 3:45 a.m., Thomas pulled up to a small residence. Thomas and Blake got out of the car, and John waited in the car. Two white men, Carl and Paul, appeared from the house. John recognized one of the men, Carl, as an acquaintance from college. The four men were talking in the front yard of the house. After a seemingly angry conversation, John saw one of the men pin Thomas to the ground. At this point, John got out of the car to help his brother.

Upon seeing John emerge from the car, Paul got off Thomas, apologized and started to walk to his car, which was parked in the drive way. Paul suddenly turned to Thomas and said, *"Let's go heads up"* and added that he had something for Thomas and his friends. Paul moved towards his car and leaned in the car. Thomas was still on the ground. As Paul leaned into the car, John ran to Paul and grabbed him from the rear. Paul and John started tussling. During the chaos, John got Paul in a headlock/chokehold. Simultaneously, Paul was squeezing John's testicles. John yelled that he would let go if Paul let go. After John let go, Paul died from asphyxiation caused by the chokehold.

During this altercation, John says he heard some shots go off. He believes that Blake went to the Escalade, retrieved a nine millimeter Glock pistol from the center console and fired four shots. Moments after John let go of Paul, the police arrived and arrested John, Thomas and Blake. John made no statements to the police and invoked his right to remain silent.

John, Thomas and Blake were charged with the murder of Carl.

Blake's Testimony

Blake has entered into an agreement with the State. He will not be prosecuted for murder as long as he tells the truth in the trial of the two brothers. He will be allowed to plead guilty to involuntary manslaughter. The State will not recommend a sentence to the plea. Blake will testify that he, Thomas, and John agreed to confront the two victims about some cocaine that they fronted to the victims; and that he and the brothers agreed to threaten to kill the victims if they did not pay for the drugs. Blake will testify that the gun was Thomas's and that Thomas fired three shots. He will also testify that John was a partner in the drug business and John stood to profit from this deal. He will also testify that John got out of the car when they arrived at the residence and that John instigated the fight with Paul.

Whitney's Testimony

Whitney is Carl's girlfriend and was inside the residence when the incident happened. She will testify that, after Paul and Carl went outside, she heard a loud argument. She then opened the door and saw John and Paul fighting next to Paul's car. She will testify that she saw two black guys near the Escalade. She will say that, as Carl headed toward Paul and John, one of the men near the Escalade started shooting. She ducked when she heard the shots and called 911 on her iPhone.

On the 911 call, Whitney described the person she saw shooting as having dreads and wearing a USC jersey. By the time she got off the phone, she saw Carl, crawling towards the door. She helped him in; then closed and locked the door. As Carl died in her arms, he said, "I can't believe Outlaw did that."

Responding Officer's Report and Testimony

The responding officer's report included a description of John, Thomas and Blake. John is a 6'2", 225-pound, African American male with dreads. He was wearing jeans, a white shirt and a denim jacket. Blake is a 5'10" African-American male. He weighs 260 pounds and has hair with short twists. He was wearing jeans and a black t-shirt. Thomas is a 6'2" black male, 185 pounds, with close-cropped hair. He was wearing jeans and a Gamecocks hoodie.

The victim's car was impounded as evidence because one of the bullets hit the car. Police found a .38 revolver in the trunk. Ballistics confirmed that the bullet found in the car was from the Glock.

Thomas's Statements

When Thomas was arrested, he was handcuffed and put in the back of one of the police cars. On the ride to the police station, Thomas said that "it was not supposed to go down like that." He said, "It's all my fault. John should have just stayed in the car."

Thomas was taken to the police station where he signed a written Miranda waiver. In a written statement, Thomas states that he knew his brother would be at the club. He went by there and decided to pick him up.

Thomas's un-redacted statement states that John is not involved in the drug business and that John is the one person in his family that has made something out of himself. Thomas says that John only went to grab Paul as Paul was running towards his own car to most likely get a weapon.

Thomas says that the gun is in fact his and that Blake grabbed the gun during the fight between John and Paul. He claims that Blake shot the gun. Thomas says that Blake yelled "*I capped that mother fucker*" after hitting Carl.